

## COUNCILLOR ACCESS TO INFORMATION, STAFF AND COUNCIL PREMISES (16/12/2009)

### 1. STATEMENT OF POLICY INTENT

The intent of this policy is to identify the scope of access Councillors have to information, staff and council premises and to establish the process to be followed so that access to information, staff and premises is facilitated through appropriate internal channels or legally available channels.

### 2. DEFINITIONS AND ABBREVIATIONS

|              |   |
|--------------|---|
| Act          | Local Government Act 1993 (NSW)                   |
| GM           | General Manager                                   |
| Junior Staff | Any staff member below Manager level              |
| Regulations  | Local Government (General) Regulations 2005 (NSW) |

### 3. POLICY

#### 3.1. Background

The Act provides for a separation of the role of Councillors (Section 232) and the functions of the General Manager (section 335). This separation of responsibilities and accountabilities has implications for access to information, the interaction of councilors and council staff, and access to Council premises by Councillors. This policy identifies the scope of access Councillors have in these three areas.

#### 3.2. Objectives

The objectives of this policy are:

- To provide a standard documented process on how Councillors can access Council information, staff and premises;
- To provide a process on how Councillors can access council records and information;
- To provide direction on Councillors' interaction with Council staff for not only obtaining information but in general situations;
- To provide direction on Councillors' right of access to council buildings;
- To complement the Code of Meeting Practice and the Code of Conduct;
- To provide a clear and consistent framework through which breaches of this policy will be managed and reported in alignment with the Council's Code of Conduct

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| Previous Effective Date | 19/12/2007                | Date for Review          | 16/12/2010 |
| Other Reference:        | N/A                       |                          |            |
| Application:            | All Councillors and staff |                          |            |
| Attachments:            | Nil                       |                          |            |

### 3.3. Access to Information

- 3.3.1. Councillors are entitled to access all council files, records or other documents where that document is identified in relevant legislation, or which relate to a matter currently before the council.
- 3.3.2. Councillor can request access to Council documents relating to their civic duties by lodging an Access to Information Request Form (CP141f) Councillor Request Form with either the General Manager or the Customer Service Staff. These staff will expediently arrange for access to the requested documents provided the request is in accordance with 3.3.1 above. Any recommendation to deny access will be referred to the General Manager
- 3.3.3. Councillors who have a personal (as distinct from civic) interest in a document of Council have the same rights as any other person (refer to Council Policy 141 – Access to Information Held By Council – Public)
- 3.3.4. Councillors must not release personal information about a third party except in accordance with the provisions of the relevant legislation. The Public Officer (as defined in CP141) can advise on this.

### 3.4. Access to Council Staff

- 3.4.1. The General Manager is responsible to the Council for the performance of all staff and day to day management of Council. Therefore, it is appropriate that all requests for information and approaches to staff on matters not generally available to the public and which are outside the forum of Council and Committee meetings, be directed to the General Manager or to person(s) nominated by the General Manager.
- 3.4.2. If a councillor is concerned about any refusal to provide information, the matter should be raised with the General Manager. If the Councillors is still dissatisfied they should request the information by way of a Question on Notice to the Council.
- 3.4.3. If nominated Council staff provides ad hoc advice to Councillors, they must record or document the interaction as they would if the advice was provided to a member of the public.
- 3.4.4. Councillors who have lodged a Development Application must not discuss their application with junior staff unless the Director or General Manager is present. All enquiries must be directed through the General Manager or Director. Discussions must be documented and must not be held in staff-only areas of the Council.
- 3.4.5. Councillors shall not approach junior staff directly for information or advice, other than public contact staff and then only for routine administrative matters.

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- 3.4.6. The Mayor may communicate with Council staff in the course of fulfilling the Mayor's responsibilities and the General Manager is responsible for keeping the Mayor informed of all matters relevant to those responsibilities.
- 3.4.7. Junior staff will not approach Councillors directly on other than routine administrative matters. Any other contact with Councillors must be arranged through their Director or the General Manager.
- 3.4.8. Staff members will not lobby Councillors on policy or industrial issues.
- 3.4.9. Staff members will not refuse to give to any particular councillor information that is available to other Councillors
- 3.4.10. Councillors must not attempt to direct or pressure Council staff as to the performance of their work, or recommendations they should make.
- 3.4.11. Councillors must not request staff to undertake work of a personal nature for them or any other person
- 3.4.12. Councillors must never be overbearing or threatening to Council staff
- 3.4.13. Councillors must not make personal attacks on Council staff in a public forum.
- 3.4.14. Inappropriate interactions are set out in the Code of Conduct

### 3.5. Access to Council Premises

- 3.5.1. As elected members of Council, Councillors are entitled to have access to the Council Chamber, Mayor's office (for the Mayor), General Manager's office, and public areas of Council's buildings.
- 3.5.2. Councillors who are not in pursuit of their civic duties only have the same rights of access to Council buildings and premises as any other member of the public
- 3.5.3. Councillors may not enter "staff only" areas unless with permission of the General Manager or a Director
- 3.5.4. Councillors can make arrangements with GMEA for access to permitted areas.

### 3.6. Policy Breaches

For this policy to be effective and meaningful, appropriate reporting of breaches and appropriate sanctions need to be established and consistently applied. All parties need to have confidence that the policy will be complied with and breaches will be dealt with appropriately. Any cases of clear breach of the policy that are not dealt with appropriately will erode confidence in the ability of the Council to deal with complaints and reduce the efficiency of the Council.

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**3.6.1. Reporting**

All occasions of a Councillor or staff member not complying with this policy should be immediately reported to the General Manager. Where the report relates to the conduct the General Manager, the matter shall be reported to the Mayor.

Reporting of alleged breaches will be dealt with in accordance with Clause 11 of the Wentworth Shire Council's C2 - Code of Conduct.

**3.6.2. Investigation**

Complaints with respect to Councillors and the General Manager will be handled in accordance with Clause 12 of the Wentworth Shire Council's C2 - Code of Conduct and will be assessed in accordance with Clause 13 of Wentworth Shire Council's C2 - Code of Conduct.

Complaints with respect to staff other than the General Manager will be handled in accordance with the relevant Award, relevant policies or employment contract.

**3.6.3. Sanctions**

Sanctions for Councillors are set out in Clause 12.24 and 12.25 of the Wentworth Shire Council's C2 - Code of Conduct.

Sanctions for Staff are set out in the relevant Award, relevant policies or employment contract.

**4. RESPONSIBILITY/ACCOUNTABILITY**

Councillors and staff are responsible for acting in accordance with this policy.

Councillors and staff are responsible for ensuring that any breaches of this policy are reported to the General Manager.

Where the breach relates to the conduct of a Councillor and the General Manager receives a formal complaint, he/she will give consideration to referring the matter to a Conduct Review Committee and will report the matter to the Mayor, or Deputy Mayor if the complaint relates to the conduct of the Mayor.

Where the breach relates to the conduct of staff the General Manager is responsible for taking appropriate disciplinary action if the breach is proven.

The Manager Governance and Corporate Development is responsible for reviewing this policy.

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**5. RELATED DOCUMENTS**

**5.1. ASSOCIATED LEGISLATION**

- Local Government Act 1993
- Freedom of Information Act 1989
- Privacy and Personal Information Protection Act 1998
- Health Records and Information Privacy Act 2002
- Environmental Protection and Assessment Act 1979

**5.2. ASSOCIATED GOVERNMENT POLICY PROVISIONS**

- NSW Division of Local Government Promoting Better Practice Program

**5.3. ASSOCIATED COUNCIL DOCUMENTS**

- C2 - Code of Conduct
- C1 - Code of Meeting Practice

**6. POLICY STATUS**

This policy was formally adopted by Council on 16 December 2009 and commenced operation on 16 December 2009. This policy replaces the previous version adopted on 19 December 2007 and includes changes to the format, changes to remove references to specific sections/regulations of legislation due to the pending changes to legislation in this area, and inclusion of more references to Council's Code of Conduct.

This policy may be amended or revoked at any time and must be reviewed at least twelve (12) months since its adoption (or latest amendment).

**7. AUTHORISATION**

.....  
 Position:       General Manager  
 Date:            ...../...../.....

|                         |                           |                          |            |
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